

HB0345S01 compared with HB0345

~~{deleted text}~~ shows text that was in HB0345 but was deleted in HB0345S01.

inserted text shows text that was not in HB0345 but was inserted into HB0345S01.

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Representative Ryan D. Wilcox proposes the following substitute bill:

PUBLIC SAFETY EMPLOYEE PERSONAL DATA

AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to protection of personal information of certain public safety employees.

Highlighted Provisions:

This bill:

- ▶ creates and modifies definitions;
- ▶ modifies requirements and prohibitions relating to protection of personal information of certain public safety employees; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

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None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53-18-102, as last amended by Laws of Utah 2019, Chapter 402

53-18-103, as last amended by Laws of Utah 2019, Chapter 402

REPEALS:

53-18-101, as enacted by Laws of Utah 2017, Chapter 266

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-18-102** is amended to read:

CHAPTER 18. PROTECTION OF PERSONAL INFORMATION OF PUBLIC SAFETY EMPLOYEES

53-18-102. Definitions.

As used in this chapter:

(1) "Access software provider" means a provider of software, including client or server software, or enabling tools that do any one or more of the following:

- (a) filter, screen, allow, or disallow content;
- (b) pick, choose, analyze, or digest content; or
- (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize, or translate content.

(2) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

(3) "Dispatcher" means the same as that term is defined in Section 53-6-102.

~~[(2)]~~ ~~(3)~~ (4) "Immediate family member" means a ~~[law enforcement officer's]~~ public safety employee's spouse, child, parent, or grandparent who resides with the ~~[officer]~~ public safety employee.

~~[(3)]~~ ~~(4)~~ (5) "Interactive computer service" means the same as that term is defined in Subsection 47 U.S.C. 230(f).

~~[(4)]~~ ~~(5)~~ (6) "Law enforcement officer" or "officer":

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(a) means the same as that term is defined in Section 53-13-103;

(b) includes ["correctional officers"] as defined in Section 53-13-104; and

(c) refers only to officers who are currently employed by, retired from, or were killed in the line of duty while in the employ of a state or local governmental law enforcement agency.

~~[(5)]~~ ~~(6)(7)~~ (a) "Personal information" ~~[(a) means a law enforcement officer's or law enforcement officer's]~~ means a public safety employee's or a public safety employee's immediate family member's home address, home telephone number, personal mobile telephone number, personal pager number, personal email address, or personal photograph, directions to locate the ~~[law enforcement officer's]~~ public safety employee's home, or photographs of the ~~[law enforcement officer's or the officer's]~~ public safety employee's or the public safety employee's immediate family member's home or vehicle~~[-and]~~.

(b) "Personal information" includes a record or a part of a record that:

(i) a ~~[law enforcement officer]~~ public safety employee who qualifies as an at-risk government employee under Section 63G-2-303 requests to be classified as private under Subsection 63G-2-302(1)(h); and

(ii) is classified as private under Title 63G, Chapter 2, Government Records Access and Management Act.

~~(7)(8)~~ "Public safety employee" means:

(a) a law enforcement officer;

(b) a dispatcher; or

~~(b)(c)~~ a current or retired employee or contractor of:

(i) a law enforcement agency; or

(ii) a correctional facility.

~~(6)~~ ~~(8)(9)~~ "Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

Section 2. Section **53-18-103** is amended to read:

53-18-103. Internet posting of personal information of public safety employees -- Prohibitions.

(1) (a) A state or local governmental agency that ~~[has received]~~ receives the form described in Subsection (1)(b) from a ~~[law enforcement officer]~~ public safety employee may not publicly post on the Internet the personal information of ~~[any law enforcement officer]~~ the

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public safety employee employed by the state or [~~any political subdivision~~] local governmental agency.

(b) Each state or local government agency employing [~~law enforcement officers~~] a public safety employee shall:

(i) provide a form for [~~an officer~~] a public safety employee to request the removal or concealment of the [~~officer's~~] public safety employee's personal information from the state or local government agencies' publicly accessible websites and databases;

(ii) inform the [~~officer~~] public safety employee how to submit a form under this section;

(iii) upon request, assist [~~an officer~~] a public safety employee in completing the form;

(iv) include on the form a disclaimer informing the [~~officer~~] public safety employee that by submitting a completed form the [~~officer~~] public safety employee may not receive official announcements affecting the [~~officer's~~] public safety employee's property, including notices about proposed annexations, incorporation, or zoning modifications; and

(v) require a form submitted by a [~~law enforcement officer~~] public safety employee to be signed by:

(A) for a public safety employee who is a law enforcement officer, the highest ranking elected or appointed official in the officer's chain of command certifying that the individual requesting removal or concealment is a law enforcement officer[-]; or

(B) for a public safety employee who is not a law enforcement officer, the public safety employee's supervisor.

(2) A county clerk, upon receipt of the form described in Subsection (1)(b) from a [~~law enforcement officer~~] public safety employee, completed and submitted under this section, shall:

(a) classify the [~~law enforcement officer's~~] public safety employee's voter registration record in the lieutenant governor's statewide voter registration database developed under Section 20A-2-109 as a private record; and

(b) classify the [~~law enforcement officer's~~] public safety employee's marriage licenses and marriage license applications, if any, as private records.

(3) A county recorder, treasurer, auditor, or tax assessor, upon receipt of the form described in Subsection (1)(b) from a [~~law enforcement officer~~] public safety employee, completed and submitted under this section, shall:

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(a) provide a method for the assessment roll and index and the tax roll and index that will block public access to the ~~[law enforcement officer's]~~ public safety employee's personal information; and

(b) provide to the ~~[law enforcement officer]~~ public safety employee who submits the form a written disclaimer informing the ~~[officer]~~ public safety employee that the ~~[officer]~~ public safety employee may not receive official announcements affecting the ~~[officer's]~~ public safety employee's property, including notices about proposed annexations, incorporations, or zoning modifications.

(4) A form submitted under this section remains in effect for the shorter of:

(a) four years from the date on which the form was signed by the ~~[officer]~~ public safety employee, regardless of whether the ~~[officer's]~~ public safety employee's qualifying employment is terminated during the four years; or

(b) one year after official notice of the ~~[law enforcement officer's]~~ public safety employee's death is transmitted by the ~~[officer's]~~ public safety employee's immediate family or the ~~[officer's]~~ public safety employee's employing agency to all state and local government agencies that are reasonably expected to have records containing personal information of the deceased ~~[officer]~~ public safety employee.

(5) Notwithstanding Subsection (4), the ~~[law enforcement officer]~~ public safety employee, or the ~~[officer's]~~ public safety employee's immediate family if the ~~[officer]~~ public safety employee is deceased, may rescind the form at any time.

(6) (a) An individual may not, with intent to frighten or harass ~~[a law enforcement officer]~~ a public safety employee, publicly post on the Internet the personal information of ~~[any law enforcement officer]~~ a public safety employee knowing the ~~[person]~~ public safety employee is a ~~[law enforcement officer]~~ public safety employee.

~~[(a)]~~ (b) ~~[A violation of this]~~ Except as provided in Subsection (6)(c), a violation of Subsection (6)(a) is a class B misdemeanor.

~~[(b)]~~ (c) A violation of ~~[this]~~ Subsection (6)(a) that results in bodily injury to the ~~[officer]~~ public safety employee, or a member of the ~~[officer's]~~ public safety employee's immediate family, is a class A misdemeanor.

~~[(c)]~~ (d) (i) Each act against a separate individual in violation of ~~[this]~~ Subsection (6)(a) is a separate offense.

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(ii) ~~[The]~~ A defendant may also be charged separately with the commission of any other criminal conduct related to the commission of an offense under ~~[this]~~ Subsection (6)(a).

(7) (a) A business or association may not publicly post or publicly display on the Internet the personal information of ~~[any law enforcement officer if that officer]~~ a public safety employee if the public safety employee has, either directly or through an agent designated under Subsection (7)(c), provided to that business or association a written demand to not disclose the ~~[officer's]~~ public safety employee's personal information.

(b) A written demand made under ~~[this]~~ Subsection (7)(a) by a ~~[law enforcement officer]~~ public safety employee is effective for four years beginning on the day the demand is delivered, regardless of whether ~~[or not the law enforcement officer's]~~ the public safety employee's employment as ~~[an officer]~~ a public safety employee has terminated during the four years.

(c) A ~~[law enforcement officer]~~ public safety employee may designate in writing the ~~[officer's]~~ public safety employee's employer or, for a public safety employee who is a law enforcement officer, a representative of ~~[any]~~ a voluntary professional association of law enforcement officers to act on behalf of the officer and as the officer's agent to make a written demand ~~[pursuant to]~~ under this chapter.

(d) (i) A business or association that receives a written demand from a ~~[law enforcement officer]~~ public safety employee under Subsection (7)(a) shall remove the ~~[officer's]~~ public safety employee's personal information from public display on the Internet, including the removal of information provided to cellular telephone applications, within 24 hours of the delivery of the written demand, and shall ensure that the information is not posted again on the same Internet website or any other Internet website over which the recipient of the written demand maintains or exercises control ~~[over]~~.

(ii) After receiving the ~~[law enforcement officer's]~~ public safety employee's written demand, the person, business, or association may not publicly post or publicly display on the Internet, the personal information of the ~~[law enforcement officer]~~ public safety employee.

(iii) This Subsection (7)(d) does not prohibit a telephone corporation, as defined in Section 54-2-1, or ~~[its]~~ the telephone corporation's affiliate or other voice service provider, including providers of interconnected voice over Internet protocol service as defined in 47 C.F.R. 9.3, from transferring the ~~[law enforcement officer's]~~ public safety employee's personal

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information to any person, business, or association, if the transfer is authorized by federal or state law, regulation, order, terms of service, or tariff, or is necessary in the event of an emergency, or to collect a debt owed by the ~~[officer]~~ public safety employee to the telephone corporation or its affiliate.

(iv) This Subsection (7)(d) does not apply to a telephone corporation or other voice service provider, including providers of interconnected voice over Internet protocol service, with respect to directories or directories listings to the ~~[extend]~~ extent the entity offers a nonpublished listing option.

(8) (a) A ~~[law enforcement officer]~~ public safety employee whose personal information is made public as a result of a violation of Subsection (7) may bring an action seeking injunctive or declarative relief in ~~[any]~~ a court of competent jurisdiction.

(b) If a court finds that a violation has occurred, ~~[it]~~ the court may grant injunctive or declarative relief and shall award the ~~[law enforcement officer]~~ public safety employee court costs and reasonable attorney fees.

(c) If the defendant fails to comply with an order of the court issued under ~~[this]~~ Subsection (8)~~(b)~~, the court may impose a civil penalty of not more than \$1,000 for the defendant's failure to comply with the court's order.

(9) (a) A person, business, or association may not solicit, sell, or trade on the Internet the personal information of a ~~[law enforcement officer]~~ public safety employee, if:

(i) the dissemination of the personal information poses an imminent and serious threat to the ~~[law enforcement officer's]~~ public safety employee's safety or the safety of the ~~[law enforcement officer's]~~ public safety employee's immediate family; and

(ii) the person making the information available on the Internet knows or reasonably should know of the imminent and serious threat.

(b) (i) ~~[A law enforcement officer]~~ A public safety employee whose personal information is knowingly publicly posted or publicly displayed on the Internet may bring an action in ~~[any]~~ a court of competent jurisdiction.

(ii) If a jury or court finds that a defendant has committed a violation of Subsection (9)(a), the jury or court shall award damages to the ~~[officer]~~ public safety employee in the amount of triple the cost of actual damages or \$4,000, whichever is greater.

(10) An interactive computer service or access software is not liable under Subsections

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(7)(d)(i) and (9) for information or content provided by another information content provider.

(11) Unless a state or local government agency receives a completed form directly from ~~[the law enforcement officer]~~ a public safety employee in accordance with Subsection (1), a state or local government official who makes information available for public inspection in accordance with state law is not in violation of this chapter.

Section 3. **Repealer.**

This bill repeals:

Section **53-18-101, Title.**